IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 19529 of 1995

Between:

S.A.Waheed s/o Syed Moinnuddin
R/o. New Subashnagar, Miryalguda
Nalgonda Dist.,

..... PETITIONER

AND

1 The Labour Court-III at Hyderabad rep. by its Presiding Officer
"Chandra Vihar Buildings" 4th floor, M.J.Road, Hyderabad.
2 The Depot Manager APSRTC BUS DEPOT; YADAGIRIGUTTA
Nolgonda District.,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records from the 1st respondents and issue a Writ, order or direction particularly on in the nature of writ of certiorari and quash the Award passed by the 1st respondent in I.D.No.364/88, dated. 06.11.1991, published on 20.12.1991 in so far as it relates to the denial of back-wages to the petitioner, holding the same as illegal, unjust, contrary to law and perverse and grant him the relief of full back-wages from the date of removal till the date of reinstatement into service in the interest of justice and fair-play.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1: GP FOR LABOUR

For the Respondent No.2: MR. R. MANMADHA REDDY, S.C. for APSRTC

The Court made the following :

O R D E R :

The Award dated 6.11.1991 passed by the Labour Court-III, Hyderabad in I.D.No.364 of 1988 was assailed by the workman concered.

2. The petitioner was working as conductor in A.P.S.R.T.C. He was appointed on 2.3.1979 and his services were terminated on 30.10.1986 on the ground of alleged absence. Thereupon, after availing the appeal remedy, he raised the industrial dispute in I.D.No.364 of 1988 before the first respondent. The learned Tribunal after considering the matter, domestic enquiry was initiated, as there was no proper opportunity was given to the workman concerned. But, however, the learned Tribunal found that the allegation made by the petitioner-workman that he was sick was not proved by adducing any evidence or filing medical certificate. On that ground, the learned Tribunal passed the award dated 6.11.1991 directing reinstatement of petitioner but without back wages. The said Award is assailed by the petitioner-workman to the extent of denial of back wages.

3. Learned Counsel for the petitioner however submits that the denial of back wages is illegal and contrary to law. He further submits that when the termination itself is invalid, the natural relief of reinstatement and back wages shall be granted to the workman-petitioner. Therefore, to that extent the order of the Tribunal has to be set aside. I am afraid that I cannot accept this contention.

4. I have heard the learned Standing Counsel for the respondent-A.P.S.R.T.C.

5. I have perused the Award passed by the learned Tribunal. Even the petitioner

could not able to establish that he was really sick for the period from 15.3.1986 to 17.3.1986. Though it is sought to be contended that the medical certificate was already furnished to the A.P.S.R.T.C. authorities, he did not choose to examine the person concerned,if really he submitted the medical certificate. Further, denying the back wages to the petitioner on the facts and circumstances of the case is purely discretion of the Tribunal. Under those circumstances, I am not inclined to interfere with the Award passed by the Tribunal in denying the back wages to the petitioner. Hence, I do not find merits in this writ petition.

6. Accordingly, the Writ Petition is dismissed. No costs.

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G. BIKSHAPATHY,J

Dated:23.9.2004,

Ccm

To:

1 The Presiding Officer,Labour Court-III at Hyderabad
"Chandra Vihar Buildings" 4th floor, M.J.Road, Hyderabad.
2 The Depot Manager APSRTC BUS DEPOT; YADAGIRIGUTTA
Nolgonda District.,

3. 2 CCs to the G.P. for Labour, High Court Buildings, A.P. Hyderabad

(OUT)

4. 2 CD copies.